

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA1049022**Filing date: **04/14/2020**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Abercrombie & Fitch Trading Co.
Granted to Date of previous extension	04/15/2020
Address	6301 FITCH PATH NEW ALBANY, OH 43054 UNITED STATES
Correspondence information	JOSE BAUTISTA Legal Counsel ABERCROMBIE & FITCH TRADING CO. 6301 FITCH PATH NEW ALBANY, OH 43054 UNITED STATES ipdocketingwest@anfcorp.com 614-283-6500

**Applicant Information**

Application No	88555046	Publication date	12/17/2019
Opposition Filing Date	04/14/2020	Opposition Period Ends	04/15/2020
Applicant	Srinivasa Rao Gubbala 6951 NW 170th Ave Portland, OR 97229 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Belts; Belts for clothing; Belts made of leather; Belts of textile; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Clothing layettes; Clothing shields, namely, pads applied to the under-arms of shirts, blouses and sweaters; Clothing wraps; Clothing, namely, baselayers; Clothing, namely, maternity bands; Clothing, namely, wrap-arounds; Gloves as clothing; Hats; Hiking jackets; Hoodies; Hoods; Jackets for man, women and kids; Shirts; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Shirts for suits; Shoes; Sports jackets; Sports bras; Sports caps and hats; Sports jerseys and breeches for sports; Sports over uniforms; Sports shoes; Sports singlets; Sports vests; Top hats; Underarm clothing shields; Undergarments; Undergarments, namely, waspies; Woolly hats; Yoga shirts; Athletic shirts; Baby layettes for clothing; Camp shirts; Collared shirts; Denim jackets; Dress shirts; Fingerless gloves as clothing; Graphic T-shirts; Head wraps; Knit jackets; Leather jackets; Leather shirts; Long-sleeved shirts; Night shirts; Open-necked shirts; Polo shirts; Shoulderwraps; Shoulder wraps for clothing; Sport shirts; Sports shirts with short

sleeves; T-shirts; Tee-shirts; Woven shirts
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## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

## Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3745498	Application Date	07/10/2006
Registration Date	02/02/2010	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a miscellaneous design with a contrasting border shown in white, although no color is claimed.		
Goods/Services	Class 025. First use: First Use: 2003/10/00 First Use In Commerce: 2003/10/00 Clothing, namely, [blazers, ] blouses, boxer shorts, camisoles, caps, coats, dresses, footwear,[ halter tops,] hats, jackets, jeans, knit shirts, knit tops, loungewear, pajamas, pants, scarves, shirts, shorts, skirts, sleepwear, sweat pants, sweat shirts, sweaters, swim wear, t-shirts, tank tops, undershirts, underwear and vests, all sold exclusively through applicant's Hollister stores and Hollister website		

U.S. Registration No.	4022932	Application Date	05/16/2003
Registration Date	09/06/2011	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a bird design silhouette.		

Goods/Services	Class 025. First use: First Use: 2003/08/08 First Use In Commerce: 2003/08/08 clothing, namely, beachwear, belts, boxer shorts, jackets, jeans, knit shirts, knit tops, pants, shirts, shorts, skirts, sweat shirts, sweaters, swim wear, t-shirts and tank tops sold exclusively in Hollister Co. stores and Hollister Co. online web-sites
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U.S. Registration No.	3745497	Application Date	07/10/2006
Registration Date	02/02/2010	Foreign Priority Date	NONE


Word Mark	NONE
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Design Mark	
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Description of Mark	The mark consists of a design appearing in the color proprietary burgundy-red outlined in a shade of white.
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Goods/Services	Class 025. First use: First Use: 2003/10/00 First Use In Commerce: 2003/10/00 Clothing, namely, [ blazers, ] blouses, boxer shorts, camisoles, caps, coats, dresses, footwear, [ halter tops, ] hats, jackets, jeans, knit shirts, knit tops, loungewear, pajamas, pants, scarves, shirts, shorts, skirts, sleepwear, sweat pants, sweat shirts, sweaters, swim wear, t-shirts, tank tops, undershirts, underwear and vests, all sold exclusively through applicant's Hollister stores and Hollister website
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U.S. Registration No.	3855891	Application Date	11/04/2009
Registration Date	10/05/2010	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The mark consists of a bird design silhouette.
Goods/Services	Class 025. First use: First Use: 2005/10/00 First Use In Commerce: 2005/10/00 Gloves; Headwear; [Mittens;] Scarves


U.S. Registration No.	4091084	Application Date	06/29/2011
Registration Date	01/24/2012	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a bird design silhouette.		
Goods/Services	Class 025. First use: First Use: 2003/08/08 First Use In Commerce: 2003/08/08 Belts; Bottoms; Coats; Footwear; Jackets; Sleepwear; Swimwear; Tops; Undergarments		

U.S. Registration No.	3588412	Application Date	11/16/2007
Registration Date	03/10/2009	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2006/10/12 First Use In Commerce: 2006/10/12 On-line retail store services featuring personal care products, clothing, jewelry, and bags; Retail store services featuring personal care products, clothing, jewelry, and bags

U.S. Registration No.	4384092	Application Date	05/16/2003
Registration Date	08/13/2013	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a bird design silhouette.		
Goods/Services	Class 035. First use: First Use: 2006/02/00 First Use In Commerce: 2006/02/00 retail clothing store services		


U.S. Registration No.	3592454	Application Date	11/16/2007
Registration Date	03/17/2009	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The mark consists of a bird design appearing in the color proprietary burgundy-red outlined in a shade of white.
Goods/Services	Class 035. First use: First Use: 2006/10/12 First Use In Commerce: 2006/10/12 On-line retail store services featuring personal care products, clothing, jewelry, and bags; Retail stores featuring personal care products, clothing, jewelry, and bags

Attachments	78926248#TMSN.png( bytes ) 76979139#TMSN.png( bytes ) 78926190#TMSN.png( bytes ) 77865065#TMSN.png( bytes ) 85359504#TMSN.png( bytes ) 77331592#TMSN.png( bytes ) 76516815#TMSN.png( bytes ) 77331597#TMSN.png( bytes ) 88555046 .pdf(184884 bytes )
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Signature	/JOSE BAUTISTA/
Name	JOSE BAUTISTA
Date	04/14/2020

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

	)	
Abercrombie & Fitch Trading Co.,	)	
	)	Opposition No. _____
Opposer,	)	
	)	Application No.: 88/555,046
	)	
	)	
v.	)	Subject Mark: 
	)	
Srinivasa Rao Gubbala	)	
	)	Published: December 17, 2019
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Abercrombie & Fitch Trading Co. (“Opposer”) is an Ohio corporation with its principal place of business at 6301 Fitch Path, New Albany, Ohio 43054.

To the best of Opposer’s knowledge, Srinivasa Rao Gubbala (“Applicant”) is an individual with an address of 6951 NW 170<sup>th</sup> Ave., Portland, OR 97229, and owner of Application No. 88/555,046 (the “Application”).

Opposer believes that it is or will be damaged by registration of the Application and hereby opposes registration of same.

The Application was filed for registration on the Principal Register on July 31, 2019 for use in connection with various clothing, footwear, headwear, and accessories in Class 25. The Application was published for opposition on December 17, 2019. An extension of time to oppose the Application was timely sought by Opposer and duly granted.

As grounds for the Opposition, it is alleged that:

1. The parent company of Opposer, Abercrombie & Fitch Co., is one of the largest manufacturers, wholesalers, and retailers of high quality casual apparel and accessories for men, women, and children with an active, youthful lifestyle in the U.S.A. For well over a decade, Opposer's parent company and its predecessors in interest have manufactured and sold high-end apparel and related accessories in the United States, through its Hollister Co. clothing brand, with its signature logo comprising a bird design, which Opposer has registered in various forms (the "A&F Bird Design Marks").

2. Opposer, Abercrombie & Fitch Trading Co., is a wholly owned subsidiary and holding company of Abercrombie & Fitch Co., the parent company, a Delaware corporation.

3. Opposer is the owner of numerous US registrations for the A&F Bird Design Marks:

MARK	REG. NO./ APP. NO.	REG. DATE/ APP. DATE	GOODS	FIRST USE DATE
	Reg: 3745498	2-FEB-2010	25 – Clothing (various)	00-OCT-2003
	Reg: 4022932	6- SEPT-2011	25 – Clothing (various)	8-AUG-2003
	Reg: 3745497	2-FEB-2010	25 – Clothing (various)	00-OCT-2003
	Reg: 3855891	5-OCT-2010	25 – Gloves; Headwear; Mittens; Scarves	00-OCT-2005
	Reg: 4091084	24-JAN-2012	25 – Belts; Bottoms; Coats; Footwear; Jackets; Sleepwear; Swimwear; Tops; Undergarments	08-AUG-2003
	Reg: 3588412	10-MAR-2009	35 – Retail store services	12-OCT-2006
	Reg: 4384092	13-AUG-2013	35 – Retail store services	00-FEB-2006
	Reg: 3592454	17-MAR-2009	35 – Retail store services	12-OCT-2006



4. In accordance with § 5 of the Federal Trademark Act, all use of the A&F Bird Design Marks by Opposer's affiliated and related companies, as alleged herein, inures to the benefit of Opposer.

5. All of Opposer's registrations identified in the chart above are *prima facie* evidence of the validity thereof and Opposer's ownership and exclusive right to use these marks in commerce, and are constructive notice of Opposer's ownership thereof, all as provided by §§ 7(b) and 22 of the Federal Trademark Act of 1946, as amended.

6. Opposer's registrations for eight of the A&F Bird Design Marks (Reg. Nos. 3,745,498; 4,022,932; 3,745,497; 3,855,891; 4,091,084; 3,588,412; 4,384,092; and 3,592,454) are incontestable under 15 U.S.C. §1065, and as such, these registrations are conclusive evidence of the validity of the registered marks, of Opposer's ownership of the marks, and of Opposer's exclusive right to use the A&F Bird Design Marks in commerce.

7. Since at least as early as August of 2003, Opposer and its predecessors in interest have sold clothing under A&F Bird Design Marks. Opposer and its predecessors in interest have also used the A&F Bird Design Marks for retail store services featuring those products in International Class 35, as detailed in the chart above.

8. Opposer's use of the A&F Bird Design Marks has been valid and continuous since at least as early as each of the respective dates of first use and has not been abandoned.

9. Opposer actively promotes its A&F Bird Design Marks on its website at [www.hollisterco.com](http://www.hollisterco.com), on its mobile app, on its various social media platforms, on in-store photographs, on tags and packaging, and has spent substantial sums advertising its A&F Bird Design Marks.

10. Opposer's clothing and other products, including but not limited to footwear, headwear, and accessories, bearing the A&F Bird Design Marks are sold in its Hollister Co. stores, as well as through its website [www.hollisterco.com](http://www.hollisterco.com).

11. As a result of Opposer's long and continuous use of the A&F Bird Design Marks since at least as early as August of 2003, and its substantial investment in advertising and promotion, the A&F Bird Design Marks are famous and consumers have come to recognize the A&F Bird Design Marks as uniquely associated with Opposer and an indication of origin in Opposer. Consequently, Opposer has established valuable goodwill and exclusive rights in the registered A&F Bird Design Marks.

12. Applicant is the owner of U.S. Application No. 88/555,046, which was filed on July 31, 2019 under § 1(b) of the Trademark Act, for the mark comprising a bird design with outstretched wings (hereinafter, the "Gubbala Bird Design Mark") for various clothing, footwear, headwear, and clothing accessories in International Class 25.

13. Opposer's A&F Bird Design Marks became famous in the United States well prior to the filing date of the Application.

14. Opposer's filing date to register and registrations of the A&F Bird Design Marks predates Applicant's filing date by well over a decade.

15. Opposer's use of the A&F Bird Design Marks predates Applicant's filing date.

16. Applicant's Gubbala Bird Design Mark so closely resemble Opposer's previously used and registered A&F Bird Design Marks in appearance and commercial impression so as to be likely to cause confusion, mistake or deception under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

17. Applicant's applied-for goods as set forth in the Application are identical and/or closely related to the goods set forth in Opposer's registrations for the A&F Bird Design Marks.

18. Applicant's goods are likely to be sold to the same or overlapping classes of purchasers as Opposer's goods and are likely to be sold through the same channels of trade, as there are no limitations in the identification of goods and services in the respective registrations owned by Opposer and Applicant's Application.

19. Therefore, consumers are likely to be confused, mistaken, or deceived into the belief, contrary to the fact, that the goods offered by Applicant under the Gubbala Bird Design Mark emanate from and/or are in some way sponsored or approved by Opposer and/or that Applicant is somehow affiliated with Opposer.

20. Applicant's use and registration of the Gubbala Bird Design Mark is likely to dilute Opposer's A&F Bird Design Marks by impairing their distinctiveness and ability to exclusively identify goods from Opposer, which have acquired renown as used by Opposer in violation of § 43(c) of the Federal Trademark Act.

21. If Applicant's Gubbala Bird Design Mark is registered, Applicant will receive a *prima facie* nationwide exclusive right to use a mark that is likely to cause confusion as to source, sponsorship and affiliation with the A&F Bird Design Marks in commerce.

22. WHEREFORE, for the foregoing reasons, Opposer respectfully requests that the present Opposition be sustained in favor of A&F, and that Application No. 88/555,046 be refused registration.

Respectfully submitted,

Abercrombie & Fitch Trading Co.

Dated: 04/14/2020

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